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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,796

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Alan Walter Shen

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EXAMINER

OSMAN, RAMY M

ART UNIT

PAPER NUMBER

2157

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/749,796

**Applicant(s)**

SHEN ET AL.

**Examiner**

RAMY M. OSMAN

**Art Unit**

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) 9-27 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-8 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 20 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 12/20/03  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

This action is responsive to response to restriction filed on March 20, 2008. Applicant's election without traverse of Group I (claims 1-8) is acknowledged. Claims 1-8 are pending examination.

### ***Claim Rejections - 35 USC § 101***

1. Claims 1-8 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1, for example, recites a “system”. Applicants specification mentions that the invention can be a software only implementation. Therefore, the scope of the “server” encompasses a software only embodiment. Software is not statutory because it is simply abstract ideas and is not directed to a process occurring as a result of executing the software on an actual physical device. For a claim like this to be statutory, an actual hardware device is required. These claims do meet this criterion and are therefore deemed non-statutory.

**See MPEP Chapter 2106.01 Section I**

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claims 1-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Boike (US Patent No 6,959,439) in view of Applicant Admitted Prior Art (AAPA, Applicants "Background" Disclosure of US Patent Publication 2005/0090248).**

4. In reference to claim 1, Boike teaches a system for using a user-mode module to kernel-mode driver interface to send commands to and receive information from a kernel-mode WWAN device driver comprising:

a user-mode entity (column 3 lines 6-7);

a first set of object identifiers (OIDs) sendable by the user-mode entity, through a user-mode module to kernel-mode driver interface, to the WWAN device driver (column 3 lines 6-32); and

a second set of OIDs receivable by the user-mode entity, through a user-mode module to kernel-mode driver interface, from the WWAN device driver (column 3 lines 6-32 and column 4 lines 53-65);

wherein, after sending an OID from the first set, the user-mode entity is permitted to send OIDs to the WWAN device driver through the user-mode module to kernel-mode driver interface, prior to receiving a response from the WWAN device driver (column 3 lines 6-32 and column 4 lines 53-65 and column 7 lines 30-60).

Boike fails to explicitly teach WWAN drivers. However, AAPA mentions that WWAN (also known as cellular operators) are well known to allow computers to connect via WWAN protocols for the provision of efficient data services to the network users (AAPA, ¶s 3-5). It would have been obvious for one of ordinary skill in the art to modify Boike by implement the

NDIS WAN/LAN drivers of Boike as the WWAN drivers of AAPA for the provision of efficient data services to the network users.

5. In reference to claim 2, Boike teaches the system of claim 1. Boike fails to explicitly teach wherein the WWAN device driver controls a GSM-based device. However, AAPA teaches that GSM is a well known WWAN protocol (AAPA, ¶ 3). (See rationale for claim 1)

6. In reference to claim 3, Boike teaches the system of claim 1 wherein the WWAN device driver controls a CDMA-based device. However, AAPA teaches that CDMA is a well known WWAN protocol (AAPA, ¶ 3). (See rationale for claim 1)

7. In reference to claim 4, Boike teaches the system of claim 1 wherein the WWAN device driver controls a CDMA or GSM-based device. However, AAPA teaches that GSM is a well known WWAN protocol (AAPA, ¶ 3). (See rationale for claim 1)

8. In reference to claim 5, Boike teaches the system of claim 1 wherein the second set of OIDs comprises OIDs for indicating to the user-mode entity that a WWAN device associated with the WWAN device driver has been provisioned by a WWAN service provider. However, AAPA teaches WWAN protocol drivers (AAPA, ¶ 3). (See rationale for claim 1)

9. In reference to claim 6, Boike teaches the system of claim 1 wherein the first and second sets of OIDs comprise OIDs for authentication with information from a SIM. However, AAPA teaches utilizing SIM (AAPA, ¶ 5). (See rationale for claim 1)

10. In reference to claim 7, Boike teaches the system of claim 1 wherein the first and second sets of OIDs comprise OIDs for authentication with a PIN. However, AAPA teaches utilizing PIN (AAPA, ¶ 5). (See rationale for claim 1)

11. In reference to claim 8, Boike teaches the system of claim 7 wherein the PIN is used in conjunction with a voice call. However, AAPA teaches utilizing PIN (AAPA, ¶ 5). (See rationale for claim 1)

### ***Conclusion***

12. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/  
Primary Examiner, Art Unit 2157  
June 9, 2008